

ESTTA Tracking number: **ESTTA430972**Filing date: **09/16/2011**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

**Petitioner Information**

Name	Feldenkrais Guild of North America		
Entity	Corporation	Citizenship	Oregon
Address	5436 N. Albina Avenue Portland, OR 97217 UNITED STATES		

Attorney information	Mark K. Suri Ryndak & Suri LLP 200 West Madison Street Suite 2100 Chicago, IL 60606 UNITED STATES suri@ryndaksuri.com, docket@ryndaksuri.com Phone:312-214-7770
----------------------	--

**Registration Subject to Cancellation**

Registration No	3701308	Registration date	10/27/2009
Registrant	Witt, Kiersten, Marie 401 E Broomfield Mount Pleasant, MI 48858 UNITED STATES		

**Goods/Services Subject to Cancellation**


Class 041. First Use: 2008/06/01 First Use In Commerce: 2008/07/17 All goods and services in the class are cancelled, namely: Providing a web site featuring information on exercise and fitness; Providing assistance, personal training and physical fitness consultation to individuals to help them make physical fitness, strength, conditioning, and exercise improvement in their daily living; Providing educational mentoring services and programs in the field of fitness, wellness, and healthy eating; Providing information in the field of exercise training
--

**Grounds for Cancellation**

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

**Mark Cited by Petitioner as Basis for Cancellation**

U.S. Application No.	85199807	Application Date	12/16/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FI		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 1979/02/05 First Use In Commerce: 1979/02/05 educational services consisting of guided movement lessons
Attachments	85199807#TMSN.jpeg ( 1 page )( bytes ) Petition to Cancel Registration.pdf ( 5 pages )(27780 bytes )

### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Mark K. Suri/
Name	Mark K. Suri
Date	09/16/2011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

FELDENKRAIS GUILD OF NORTH  
AMERICA,

Petitioner,

v.

KIERSTEN MARIE WITT, DBA,  
FITNESS INSPIRED, LLC

Registrant.

Registration No. 3,701,308

I hereby certify that this correspondence and all marked attachments are being electronically filed with the Trademark Trial and Appeal Board through their web site located at <http://esta.uspto.gov> on September 16, 2011.

By: /Mark K. Suri/  
Registration No. 36024

**PETITION TO CANCEL U.S. REGISTRATION NO. 3,701,308**

Pursuant to 15 U.S.C. §§ 1064, 1068, 37 C.F.R § 2.111(b), and TBMP § 309.03(d), Feldenkrais Guild of North America, an Oregon corporation having a place of business at 5436 N. Albina Avenue, Portland, Oregon 97217 (“FGNA” or “Petitioner”), believes that it is and continues to be damaged by the registration of U.S. Registration No. 3,701,308 in Class 41 for the mark FI (the “Subject Registration”), owned by Kiersten Marie Witt, dba Fitness Inspired, LLC, a Michigan limited liability corporation having an address at 401 East Broomfield, Mount Pleasant, Michigan 48858 (“Witt” or “Registrant”), and hereby petitions to cancel the same. A description of the Subject Registration is as follows:

Mark	<b>FI</b>
Reg. No.	3,701,308
Filing Date	October 27, 2009
Filing Basis	1(a)
Services	<b>Class 9:</b> Digital media, namely, DVDs and downloadable online video recordings featuring fitness and exercise. <b>Class 25:</b> Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Hooded sweat shirts; Moisture-wicking sports shirts. <b>Class 41:</b> Providing a web site featuring information on exercise and fitness; Providing assistance, personal training and physical fitness consultation to individuals to help them make physical fitness, strength, conditioning, and exercise improvement in their daily living; Providing

	educational mentoring services and programs in the field of fitness, wellness, and healthy eating; Providing information in the field of exercise training.
Register	Principal

As grounds for canceling the Subjection Registration in Class 41, it is alleged as follows:

1. FGNA is a leading supplier of educational services using gentle movement and directed attention to improve movement and to enhance human functionality. These services increase ease and range of motion and improve flexibility and coordination. Since 1979, FGNA and/or its authorized licensees has continuously and regularly offered educational services consisting of guided movement lessons under the mark FI <sup>TM</sup>.
2. Among the services FGNA and/or its authorized licensees offers under the FI <sup>TM</sup> mark are educational services consisting of guided movement lessons (the “FGNA Services”). The FGNA Services are of exceptional quality.
3. Since well prior to the filing date of the U.S. Application serial No. 77/705,994 (the “Witt Application”), which matured to the Subject Registration, FGNA has offered the FGNA Services extensively throughout the United States through its authorized licensees to its students. By virtue of FGNA’s extensive and continuous use of the FI <sup>TM</sup> mark throughout the United States in educational services consisting of guided movement lessons for over 30 years, consumers readily associate services offered under the FI <sup>TM</sup> mark with FGNA. Indeed, since a date well prior to the filing of the Witt Application, the FI <sup>TM</sup> mark was recognized by consumers as identifying FGNA as the source of such services such that the primary significance of the FI <sup>TM</sup> mark to consumers is FGNA or an anonymous producer. By virtue of FGNA’s extensive and continuous use of the FI <sup>TM</sup> mark, it is a strong, distinctive mark to which FGNA has strong common law rights.

4. As FGNA has been initially refused registration for the FGNA application, Ser. No. 85/199,807 (the “FGNA Application”), based on the services in Class 41 in the Subject Registration, FGNA is and will continue to be harmed by the continued registration of the Subject Registration in Class 41. Moreover, whatever rights Witt may be entitled to by virtue of the Subject Registration conflicts with FGNA’s prior lawful and continuous use of the FI <sup>TM</sup> mark throughout the United States.

5. As the Examining Attorney reviewing the FGNA Application has held, the mark shown in the Subject Registration for services in Class 41 so resembles Petitioner’s FI <sup>TM</sup> mark previously used by FGNA and not abandoned, as to be likely, when used on or in connection with the services in Class 41 identified in the Subject Registration to cause confusion, or to cause mistake, or to deceive. Accordingly, the Subject Registration should be cancelled in Class 41 under 15 U.S.C. §§ 1052(d), 1068 as FGNA has clear priority of use.

6. By virtue of the foregoing, FGNA will be gravely damaged by the continued registration of the mark shown in the Subject Registration in Class 41.

7. By reasons of the foregoing, the Subject Registration should be partially cancelled under section 2(d) of the Trademark Act as it currently acts as a bar to the FGNA Application.

WHEREFORE, FGNA prays that the Subject Registration, U.S. Registration No. 3,701,308 be cancelled as to the services identified in Class 41 and that this partial cancellation be sustained in favor of FGNA.

Respectfully submitted,

FELDENKRAIS GUILD OF NORTH AMERICA

Dated: September 16, 2011

By: /Mark K. Suri/

Mark K. Suri  
Ryndak & Suri LLP  
200 West Madison Street  
Suite 2100  
Chicago, Illinois 60606

Attorney for Petitioner,  
Feldenkrais Guild of North America

**CERTIFICATE OF SERVICE**

I hereby certify that on September 16, 2011, I served a copy of the foregoing  
**PETITION TO CANCEL U.S. REGISTRATION NO. 3,701,308** upon Registrant by  
first class U.S. Mail, postage prepaid thereon, and addressed to Registrant as follows:

Kiersten Marie Witt  
DBA Fitness Inspired LLC  
401 E. Broomfield  
Mount Pleasant MI 48858

/Mark K. Suri/  
Mark K. Suri